

provide abortion coverage or services is unacceptable and contrary to public law.

Once again, we request your immediate written response to the concerns stated above. In addition, I invite your staff to meet with our staff as soon as possible to explain the legal basis for the interpretation presented to us in your October 14 letter. Thank you in advance for your cooperation.

Sincerely,

DON NICKLES,
Assistant Majority Leader.

DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
Washington, DC, October 15, 1998.

Hon. DON NICKLES,
Assistant Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: I wanted to provide further information with respect to issues discussed in our recent correspondence.

States are not required to provide coverage of abortion services, including abortion services for which coverage is permissible under Title XI of the Social Security Act, under any of the S-CHIP benefit package options in section 2103. No state will be denied approval of its S-CHIP plan because its benefit package under section 2103 does not include coverage of abortion services, including abortion services for which coverage is permissible under Title XXI.

Thank you for your interest in this matter. Sincerely,

DONNA E. SHALALA.

TRIBUTE TO SENATOR KEMPTHORNE

Mr. ABRAHAM. Mr. President, I rise to pay tribute to the Junior Senator from Idaho, Mr. KEMPTHORNE. My wife, Jane, and I got to know DIRK and his wife, Pat, soon after I came to Washington, and they have been good friends. Pat and DIRK are simply wonderful people, whose warmth and civility make the Senate a better place.

DIRK KEMPTHORNE has brought his energy and goodwill with him to the Senate every day, making it a better place in which to work and, I am sure, improving our ability to work together to pass constructive legislation. In addition, he has brought tremendous insight and common sense to the legislative process. I am proud to have worked with him in passing Unfunded Mandates legislation in 1995. This bill, which Senator KEMPTHORNE managed on the floor, is an important step forward for American small business and its passage could not have been secured without his able leadership.

Whether as a key member of the Small Business Committee, as Chairman of the Drinking Water, Fisheries, and Wildlife subcommittee of the Environment and Public Works Committee, or as Chairman of the Personnel Subcommittee of the Armed Services Committee, DIRK has brought strong leadership and reasoned argument to our public policy debates. He was instrumental in initiating the Congressional Commission on Military Training. He laid the groundwork for long overdue reforms to the Endangered Species Act; reforms that will protect our wildlife without unduly tampering with Amer-

ica's traditional commitment to private property rights.

DIRK has decided, in the interests of his family, to leave Washington and return to Idaho. While I am certain all of us here will miss him, he leaves a weighty record of achievement and will continue to serve as a model of Senatorial conduct for years to come. I know the people of Idaho will benefit greatly from his coming service as Governor and wish him, his wife and children, all the best in their return home.

ORGAN TRANSPLANT REGULATIONS

Mr. HATCH. Mr. President, I rise to speak on a patient care issue of enormous importance: regulations being promulgated by the Secretary of Health and Human Services (HHS) with respect to organ transplantation.

I have long championed the need for our country to bring the innovations of medical science to the forefront of patient treatment, be it through pharmaceutical development, gene mapping, or artificial organ development. Nowhere has this been more necessary than in the realm of organ transplantation.

Over 14 years ago, with the passage of the National Organ Transplant Act (NOTA), Congress intervened to advance medical science at a time when our health care system was not keeping pace with the tremendous advances medicine had to offer. As a result, we examined the role of the private sector and the Federal government in organ transplantation to formulate an equitable policy for individuals throughout this country to have access to organ transplantation when appropriate and necessary.

We needed a better system than that which existed at the time, and that is what NOTA established. As the author of the National Organ Transplant Act (NOTA) in 1984, which was cosponsored by our colleagues Senators NICKLES, THURMOND, GRASSLEY and ROTH, I am proud of our accomplishment, and I continue to maintain a very keen interest in our country establishing and operating a viable, effective organ transplant network.

There is no question that passage of NOTA has allowed us to save thousands of lives. The medical community has been transplanting over 4,000 livers each year. We have seen valuable transplant technology and services spread from only a handful of research institutions to hospitals in rural America.

In my home State of Utah, LDS Hospital has been able to increase its liver transplant volume over 15-fold since its inception only 13 years ago. We have aspired to promote a system which allows medical science to reach the people it was meant to serve, and I believe we are in large part achieving that goal, in great measure due to enactment of NOTA.

Today, I stand before the the Senate to urge that we not precipitously re-

verse that work by allowing implementation of a new system which could threaten to undermine many of the successful organ transplant centers who are doing so much good in this Nation. Utah's own successful transplant center comes to mind, although centers in several other States such as Alabama, Louisiana, and South Carolina would also be jeopardized if this regulation goes into effect.

While we in America are fortunate to enjoy the best health care in the world, we also have concerns about the availability of life saving care should an organ fail. Advances in medicine have made once rare transplants commonplace. Yet, there is a scarcity of organs, despite the hard work of local organ procurement agencies, transplant centers, and, indeed, developers of artificial technology such as the work being done on artificial hearts at the University of Utah.

Added to this concern about the availability of organs is a growing anxiety about the impact of HHS's proposed transplant allocation rules. A large source of this concern is within the hard-working transplant community. In fact, the Department of Health and Human Services has indicated that more than 85% of the almost 18,000 comments received oppose the organ procurement transplant network final rule.

In particular, we are seeing a rising concern about variations in the availability of organs from region to region. The HHS response, which is to, in effect, nationalize distribution, seems logical at first, but upon further reflection is a flawed policy with potentially devastating near-term effects on many transplant centers. By diverting resources from relatively "organ-rich" to relatively "organ-poor" regions, the HHS rules penalize communities which have worked to build up successful programs, including those which have done so much to improve the harvesting rates of much-needed organs.

I commend Secretary Shalala for bringing the need to further improve the organ transplant system to the forefront. One positive step is the recent rule requiring all 5,200 U.S. acute care hospitals to notify an organ procurement organization of every death as a condition of Medicare participation. Health Care Financing Administrator Nancy Ann Min-Deparle estimates that this step alone will increase organ donations by up to 20 percent.

While this was a widely supported step, the proposed rules governing the Organ Procurement and Transplant Network have not enjoyed the same enthusiasm.

In January, I joined 41 other Senators who wrote to Secretary Shalala expressing concern that the proposed final rule could be used as vehicle to turn organ allocation into a political process. Her response did not alleviate my concerns, nor those of the transplant community.

We cannot damage the public trust in the organ network, nor in the decisions